

FILED: June 24, 2021

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 21-6377
(1:10-cr-00411-TDS-1)

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

BRUCE GREGORY HARRISON, III,

Defendant - Appellant.

O R D E R

Bruce Gregory Harrison, III, seeks to appeal the district court's order denying his motion for compassionate release pursuant to 18 U.S.C. § 3582(c)(1)(A), as amended by the First Step Act of 2018, Pub. L. No. 115-391, § 603(b)(1), 132 Stat. 5194, 5239. The Government argues that Harrison's appeal is untimely. In criminal cases, the defendant must file the notice of appeal within 14 days after the entry of judgment. Fed. R. App. P. 4(b)(1)(A); *see United States v. Goodwyn*, 596 F.3d 233, 235 n.* (4th Cir. 2010) (noting that "§ 3582 motions . . . are criminal in nature"). With or without a motion, upon a showing of excusable neglect or good cause, the district court may grant an extension of

up to 30 days to file a notice of appeal. Fed. R. App. P. 4(b)(4); *see United States v. Oliver*, 878 F.3d 120, 123 (4th Cir. 2017).

The district court entered the order denying Harrison's motion for compassionate release on February 22, 2021. Harrison filed his notice of appeal on March 9, 2021,* after the 14-day appeal period expired but within the 30-day excusable neglect period. Because Harrison filed his notice of appeal within the excusable neglect period, we defer ruling on the timeliness issue and remand the case to the district court for a determination of whether Harrison has shown excusable neglect or good cause warranting an extension of the appeal period. The record, as supplemented, will then be returned to this court for further consideration.

For the Court

/s/ Patricia S. Connor, Clerk

* For the purpose of this appeal, we assume that the date appearing on the postmark is the earliest date Harrison could have delivered the notice to prison officials for mailing to the court. Fed. R. App. P. 4(c)(1); *Houston v. Lack*, 487 U.S. 266, 276 (1988).